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5 April 1951

TO: Assistant to the Deputy Director For Administration
FOR: Senior Review Committee - Review and Action
FROM: Task Force
SUBJECT: Post Differentials

Problem.

1. The problem with which we are here concerned is that of post (salary) differentials. Salary differential is additional compensation payable at a fixed percentage (10%, 15%, 20%, or 25%) of base salary for service at specified foreign stations whose environment differs so substantially from that of the United States that hardship is involved in residence there. The differential was established as an aid to recruitment in the form of monetary inducement to civilian personnel to accept assignment to such posts. The hardship is not one of a monetary nature. Differences in cost of living are compensated for by Post Allowances. Differentials are paid for differences in conditions other than monetary, e.g., tropical climate, hostility of the local population, prevalence of disease, etc. Allowances differ from salary differentials also in that they are non-taxable, while differentials, being salary increments, are subject to income tax.

2. The specific problem is this. The Confidential Funds Regulations permit payment of foreign post salary differentials as provided by the Foreign Service Regulations and/or the Standardized Post Differential Regulations (Tab A). These two regulations are different in certain substantive respects as well as general language. Both regulations are subject to an infinite variety of "interpretations". One of these regulations should be abandoned and the other adopted together with such modifications, delegations, and instructions as may be required to adapt the regulations to the needs of the Agency.

History.

3. For a proper understanding of the problem, a brief historical chronology of events appears necessary. The Secretary of State promulgated regulations concerning the payment of salary differentials for foreign service personnel in Foreign Service Serial #922. The Director of Central Intelligence authorized payment of salary differentials to employees of CIA effective as of 19 September 1948, in accordance with the regulations established in that serial. In January of 1949, the President issued Executive Order 10,000 which authorized the Secretary

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of State to establish differential posts and (1) establish Standardized Post Differential Regulations under authority of section 207, Public Law 491, 80th Congress, as amended by section 104, Public Law 862, 80th Congress, and Executive Order 10,000 for all agencies except State Department, and (2) establish differential regulations for the State Department Foreign Service under the provisions of said Executive Order and the Foreign Service Act of 1946. The provision of Foreign Service Serial #922 were similar but not identical to those of Executive Order 10,000, so CIA began to apply the regulations outlined in Executive Order 10,000. It was apparently presumed in CIA at that time that the Standardized Regulations and the Foreign Service Regulations would, when published, provide identical benefits inasmuch as the stated purpose of Executive Order 10,000 was to establish uniform standards in the Federal service and charged the Secretary of State with responsibility for the promulgation of both regulations. Such, however, did not prove to be the case for the Standardized Post Differential Regulations and the Foreign Service Post Differential Regulations, when published, were found to vary considerably in language and text, the Standardized Regulations being the more explicit and definitive of the two. Meanwhile, the Agency Confidential Funds Regulations had been amended authorizing payment per Executive Order 10,000, the Standardized Regulations and the Foreign Service Regulations. During this period there had also been a reversal of policy within CIA with respect to the payment of differentials to employees on home leave. We find, upon inquiry, that the State Department and other government agencies also had several reversals of policy with respect to payment of differentials as a result of interpretations or misinterpretations of the various regulations. We are also informed by the State Department that both the Department and the Army have submitted separate and conflicting recommendations for amendment to Executive Order 10,000. We might also add that the Comptroller General has published two formal decisions (Compt. Gen. 28-465 and 29-10) taking exception to differential payments made in connection with lump sum leave payments under certain circumstances. This has the effect of modifying the provisions of Executive Order 10,000 and the regulations issued thereunder.

Discussion.

4. From the above recitation we believe it is clear that considerable confusion has been generated both within and outside the Agency in trying to interpret and administer the two salary differential regulations. This confusion has been compounded in CIA by reason of the attempt to administer both the Foreign Service and Standardized Regulations. It would appear that the best means of eliminating some of the confusion and administrative difficulties would be to adopt one of these regulations and abandon the other. From an analysis and comparison of the two regula-

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tions, it appears that there are, in fact, only two substantive points of difference at this time although the difference in language in the two regulations may occasion further differences through "interpretation" at a later date. These differences are:

a. Foreign Service Differential Regulations prohibit payment of differentials on lump sum leave payments. The Standardized Regulations permit such payments. However, Comptroller General Decisions 28-465 and 29-10 in effect modify and limit the Standardized Regulations to the extent that differential payments on lump sum leave may not be paid except to employees who terminate overseas and are not furnished return transportation to the U. S. by the government.

b. The Standardized Regulations permit the payment of salary differential to continue while an employee is in the U. S. on temporary duty from a foreign post where differentials are payable. The Foreign Service Regulations defines all temporary duty in the U. S. as "detail" and salary differential is discontinued during periods of temporary duty in the U. S.

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their adoption for the rest of CIA employees would be parallel. However, it is the considered opinion of the Task Force that CIA should adopt the Standardized Post Differential Regulations with the modifications outlined in the attached proposed amendment to the Confidential Funds Regulations for the following reasons:

a. The Standardized Regulations are more explicit and definitive than the Foreign Service Differential Regulations and therefore less subject to misinterpretation.

b. The legal right of CIA to adopt Foreign Service Differential Regulations especially with respect to vouchered funds employees is not clear since Public Law 110 does not clearly provide such authority as it does for foreign Post Allowances, home leave, etc.

c. Changes and amendments to the Standardized Regulations as well as interpretations and modifications thereof can be promptly and easily obtained, whereas interpretations of Foreign Service Post Differential Regulations are made by the State Department and never distributed and amendments and revisions are sometimes made in circulars or notices which are never distributed or are distributed several weeks or months after their effective dates.

d. Changes and interpretations are frequently made by State Department because of internal reasons which may not be appropriate or applicable to CIA.

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Recommendation.

6. That either the Foreign Service Post Differential Regulations or the Standardized Post Differential Regulations, with appropriate modifications, be adopted by CIA. Preferably the latter (Tab B).

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